

**WARREN COUNTY BOARD OF SUPERVISORS**

**COMMITTEE: COUNTY FACILITIES**

**DATE: AUGUST 15, 2016**

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**COMMITTEE MEMBERS PRESENT:**

SUPERVISORS: GIRARD  
WOOD  
STROUGH  
CONOVER  
SEEBER  
BEATY  
MONTESI  
SIMPSON  
LEGGETT  
MACDONALD

**COMMITTEE MEMBER ABSENT:**

SUPERVISOR: BRAYMER

**OTHERS PRESENT:**

JEFFERY TENNYSON, SUPERINTENDENT OF THE DEPARTMENT OF  
PUBLIC WORKS  
KEVIN HAJOS, DEPUTY SUPERINTENDENT OF THE DEPARTMENT OF  
PUBLIC WORKS  
FRANK MOREHOUSE, SUPERINTENDENT OF BUILDINGS  
KEVIN B. GERAGHTY, CHAIRMAN OF THE BOARD  
BRIAN REICHENBACH, COUNTY ATTORNEY  
SARAH MCLENITHAN, DEPUTY CLERK OF THE BOARD  
FRANK E. THOMAS, WARREN COUNTY BUDGET OFFICER  
SUPERVISORS FRASIER  
MCDEVITT  
SOKOL  
REPRESENTING CLARK PATTERSON LEE  
MATT SMULLEN  
MARIA MAZUREK  
JULIE BUTLER, PURCHASING AGENT  
MICHAEL SWAN, COUNTY TREASURER  
TRAVIS WHITEHEAD, TOWN OF QUEENSBURY RESIDENT  
DON LEHMAN, *THE POST STAR*  
MOLLY GANOTES, LEGISLATIVE OFFICE SPECIALIST

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*Please note, the following contains a summarization of the August 15, 2016 meeting of the County Facilities Committee; the meeting in its entirety can be viewed on the Warren County website using the following link:*  
<http://www.warrencountyny.gov/gov/comm/Archive/2016/facilities/>

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Mr. Girard called the meeting of the County Facilities Committee to order at 9:30 a.m.

Mr. Girard called for a motion to approve the minutes from the last Committee meeting; the motion was made by Mr. Montesi and seconded by Mr. Strough. Upon Mr. Girard's call for discussion on the aforementioned motion, Mr. Beaty announced he planned to vote against the motion based on his feelings that the minutes were incorrect in that they did not accurately reflect the vote taken to enter into an executive session. He explained the required six votes in favor of entering into executive session had not been achieved, and based on this he believed that said executive session was held illegally. Ms. Seeber asked Brian Reichenbach, County Attorney, to opine on the matter. Mr. Reichenbach stated his recollection was that a voice vote had been taken during which no opposing votes had been announced, leading the acting Committee Chairman to declare executive session. Mr. Beaty interjected no opportunity for discussion had been provided and as he felt this allowance was required, he maintained his opinion that the executive session was held illegally. Referring to the video recording of the meeting, Mr. Beaty noted he had attempted to question the motion after executive session was declared, however, that was where the recording ended.

There being no further discussion, Mr. Girard called the question and the motion to approve the minutes of the prior meeting, subject to correction by the Clerk of the Board, was carried by a majority vote with Mr. Beaty and Ms. Seeber voting in opposition and Mr. Girard abstaining.

Mr. Girard noted he had abstained from the vote because he had not been present at the prior Committee meeting.

Privilege of the floor was extended to Jeffery Tennyson, Superintendent of the Department of Public Works, who informed the Committee that representatives from Clark Patterson Lee were in attendance to provide information regarding bids received for the Court Expansion Project and their analysis for moving forward.

Privilege of the floor was extended to Matt Smullen, of Clark Patterson Lee, who displayed a document entitled “Warren County WC 17-16: Phase I Court Addition & Phase II Court Renovation”, which summarized the bid amounts received for the Court Expansion Project. Mr. Smullen proceeded with a brief overview of the information provided and a discussion ensued. *A copy of the Warren County WC 17-16: Phase I Court Addition & Phase II Court Renovation document is on file with the meeting minutes.*

Mr. MacDonald entered the meeting at 9:38 a.m. and Mr. Beaty exited at 9:51 a.m.

At the conclusion of discussion regarding the bids received, Mr. Tennyson presented the following requests:

- 1) To authorize a new contract with Bunkoff General Contractors, Inc. in an amount not to exceed \$8,196,000 for general construction work in relation to the Phase 1 Court Addition and Phase 2 Court Renovation (WC 017-16) pursuant to the terms and provisions of the bid specifications, for a term commencing upon execution by both parties and terminating upon completion of work.

Motion was made by Mr. Montesi seconded by Mr. Strough and carried unanimously to approve the request and the necessary resolution was authorized for the August 19<sup>th</sup> Board Meeting. *A copy of the resolution request form is on file with the minutes.*

- 2) To authorize a new contract with Family Danz Mechanical in an amount not to exceed \$1,227,650 for mechanical construction in relation to the Phase 1 Court Addition and Phase 2 Court Renovation (WC 017-16) pursuant to the terms and provisions of the bid specifications, for a term commencing upon execution by both parties and terminating upon completion of work.

Motion was made by Mr. Strough, seconded by Mr. Simpson and carried unanimously to approve the request and the necessary resolution was authorized for the August 19<sup>th</sup> Board Meeting. *A copy of the resolution request form is on file with the minutes.*

- 3) To authorize a new contract with Collett Mechanical, Inc. in an amount not to exceed \$599,000 for plumbing construction in relation to the Phase 1 Court Addition and Phase 2 Court Renovation (WC 017-16) pursuant to the terms and provisions of the bid specifications, for a term commencing upon execution by both parties and terminating upon completion of work.

Motion was made by Mr. Simpson, seconded by Mr. Montesi and carried unanimously to approve the request and the necessary resolution was authorized for the August 19<sup>th</sup> Board Meeting. *A copy of the resolution request form is on file with the minutes.*

- 4) To authorize a new contract with J. McBain, Inc. in an amount not to exceed \$1,323,940 for electrical construction in relation to the Phase 1 Court Addition and Phase 2 Court Renovation (WC 017-16) pursuant to the terms and provisions of the bid specifications, for a term commencing upon execution by both parties and terminating upon completion of work.

Motion was made by Mr. Simpson, seconded by Ms. Wood and carried unanimously to approve the request and the necessary resolution was authorized for the August 19<sup>th</sup> Board Meeting. *A copy of the resolution request form is on file with the minutes.*

Mr. McDevitt inquired whether the RFP (Request for Proposal) was distributed to local contractors and Julie Butler, Purchasing Agent, replied affirmatively.

Privilege of the floor was extended to Frank Morehouse, Superintendent of Buildings, who distributed copies of the Building and Grounds agenda to the Committee members; a copy of the agenda is on file with the minutes.

Mr. Morehouse informed one of the vans used by Veterans’ Services was in need of brake and transmission repairs estimated to cost about \$3,500. A request was presented to transfer funds in the amount of \$4,000 from the Contingent

Account, A.1990 469, to Budget Code A.6510 441, Veterans' Services, Auto Supplies & Repair, to complete the repair work.

Motion was made by Mr. Simpson, seconded by Mr. MacDonald and carried unanimously to approve the request for a transfer of funds as outlined above and to forward same to the Finance, Personnel & Higher Education Committee. *A copy of the Request for Transfer of Funds form is on file with the minutes.*

Next, Mr. Tennyson advised he had an update to provide relative to the bids received for review of the Municipal Center Energy Performance Contract with Siemens Technologies and he noted that the matter should be addressed in executive session. Brian Reichenbach, County Attorney, clarified that if the Committee deemed it appropriate, the purpose of the executive session called would be to discuss matters leading to the employment of particular person or corporation.

A motion was made by Mr. Simpson and seconded by Mr. Strough to enter into executive session.

Ms. Seeber inquired why this discussion could not take place in open session and Mrs. Butler explained interviews, negotiations and contract matters of this nature were traditionally addressed in executive session in order to avoid release of information that could affect the competitive nature of the vendor they were discussing.

Travis Whitehead, Town of Queensbury Resident, noted Roberts Rules of Order, which the Committee operated by, indicated for this eleven member Committee affirmative votes of no less than six members would be needed to enter into executive session. He further noted that this vote had not occurred at the last Committee meeting during which an executive session was declared illegally in his opinion. He continued that the reason for executive session stated at the prior meeting was to discuss the employment or credit histories of a particular individual. He commented that this provision was meant to protect the privacy of people who might be subject to disciplinary actions, etc. and he did not believe the Committee had spent three hours speaking only about this issue; he added that this provisions must be strictly enforced and if the discussion deviated from the matter stated, the discussion should have been postponed and Committee returned to open session. He stated that the Chairman and County Attorney should be well aware of Roberts Rules and how they governed discussion in closed session, as well as the number of votes required to enter into executive session and he questioned what kind of oversight the Board had in place to ensure that all of these rules were being followed. He concluded that he would leave the meeting, under protest, and he advised he would be submitting a four-page complaint to the Clerk of the Board at the conclusion of the meeting. *Note: a copy of Mr. Whitehead's objection to the executive session is on file with the minutes.*

Ms. Seeber stated she planned to oppose the motion to enter into executive session based on her recent conversations with Mr. Reichenbach and information she had received regarding the open meetings law.

Mr. Strough stated executive sessions were called for many reasons, in this particular case to interview bidders for the same job. He said it would have given an unfair competitive advantage to others if the questions asked were publicly available. He noted that the executive session was employed to maintain a sense of privacy and fairness for the entirety of the closed session, which was in line with the intent and purpose of the State of New York's executive session laws.

There being no further discussion, Mr. Girard called the question and the aforementioned motion was carried by majority vote, with Ms. Seeber voting in opposition, to enter into executive session pursuant to Section 105(f) of the Public Officer's Law.

Executive session was held from 10:09 a.m. until 10:16 a.m.

Upon reconvening, Mr. Tennyson requested to authorize a new contract with Bergmann Associates in an amount not to exceed \$23,800 for consultant services related to the Post Implementation Review of the Energy Performance Contract (WC 45-16) pursuant to the terms and provisions of the bid specifications, for a term commencing upon execution by both parties and terminating upon completion of work.

Motion was made by Mr. Simpson, seconded by Mr. Montesi and carried by majority vote, with Mr. Leggett voting in opposition, to approve the request and the necessary resolution was authorized for the August 19<sup>th</sup> Board Meeting. *A copy of the resolution request form is on file with the minutes.*

Mr. Whitehead reminded the Committee that a payment in the amount of \$260,000 was due to Siemens in December. He said the contract stated the County was under no moral or legal obligation to make the payment. He opined there would not be enough time to review the data collected by Bergmann Associates and make an informed decision to withhold payment from Siemens.

Finally, Mr. Tennyson presented a request for a transfer of funds in the amount of \$3,800 from Budget Code A.1990 469, Contingent Fund, to Budget Code A1620 470, Buildings & Grounds, Contracts, to supplement the \$20,000 previously authorized and fund the contract with Bergmann Associates.

Motion was made by Mr. Conover, seconded by Ms. Wood and carried by majority vote, with Mr. Leggett voting in opposition, to approve the request for a transfer of funds as outlined above and to forward same to the Finance, Personnel & Higher Education Committee. *A copy of the Request for Transfer of Funds form is on file with the minutes.*

There being no further business to come before the County Facilities Committee, on motion made by Mr. Simpson and seconded by Mr. Montesi, Mr. Girard adjourned the meeting at 10:20 a.m.

Respectfully submitted,  
Molly Ganotes, Legislative Office Specialist